

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

JOHN BAX,)	
Petitioner,)	
)	
v.)	C.A. No. 06-296 Erie
)	
H.J. MARBERRY, Warden,)	
Respondent.)	

REPORT AND RECOMMENDATION

AND NOW, this 4th day of January, 2007, after Petitioner presented a civil rights complaint which he seeks leave to prosecute *in forma pauperis*, and it appearing that he has an average monthly balance of \$ 91.10 in his account at FCI-McKean, which sum is far in excess of the \$ 5.00 filing fee required to commence this action, and it further appearing that requiring the petitioner to pay the filing fee will not deprive him of any necessities of life at the Institution,

It is recommended that leave to proceed in forma pauperis be denied.

Petitioner shall have ten (10) days from the date of service to file written objections to this Report and Recommendation. Failure to file timely objections may constitute a waiver of any appellate rights.

S/Susan Paradise Baxter
SUSAN PARADISE BAXTER
Chief United States Magistrate Judge

cc: John Bax # 07328-067
FCI-McKean
P.O. Box 8000
Bradford, PA 16701